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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,839	05/16/2001	Michael J. Brunelle	782.1104	9188

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STAAS & HALSEY LLP  
SUITE 700  
1201 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER

GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
2645	

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/855,839

**Applicant(s)**

BRUNELLE ET AL.

**Examiner**

Gerald Gauthier

**Art Unit**

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-4, 6 and 8-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-4, 6, 8-18 and 21 is/are allowed.
- 6) ☒ Claim(s) 19, 20 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. **Claims 19-20 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Voit et al. (US 5,825,862) in view of Palmer et al. (US 2001/0038690 A1).

Regarding **claim 19**, Voit discloses a method of managing calls through an entertainment system (column 1, lines 6-11), comprising:

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notifying by an entertainment system call manager, via a data network, a call management server residing in a telephony provider network to monitor calls on the telephony network for the entertainment system (column 9, lines 56-67) [The SSP 11 composes and sends a TCAP query up to the ISCP 15 with the calling number of the incoming call before the telephone rings];

holding in the telephony-network-resident call management server a call on the telephony network for the entertainment system prior to routing the call to the entertainment system in response to the notifying (column 9, lines 56-67) [The SSP 11 hold the incoming call while querying the ISCP 15 on how to route the incoming call];

receiving in the entertainment system call manager a held call signal indicating a held call during a program play by the entertainment system to a user, via the data network from the telephony-network-resident call management server (column 11, lines 5-24) [The ISCP 15 sends the call related information to the DET 25 and the call related information is displayed on the television screen].

Voit discloses the incoming call information being displayed to television screen but fails to disclose pausing, recording and resuming the television program.

However, Palmer teaches automatically pausing and recording a television program played through the entertainment system when the held call signal is received (¶ 0058) [The synchronize services automatically pause and records the television program when receive a telephone call]; and

resuming the television program when the held call at the telephony-network resident call management server is terminated (§ 0065) [The system starts automatically resuming the program after the telephone call is terminated].

Regarding **claims 20 and 22**, Voit and Palmer disclose all the limitations of **claims 21 and 22** as stated in **claim 19**'s rejection and Voit furthermore discloses displaying a menu on a display of the entertainment system according to the received held call signal (column 11, lines 5-24) [The DET 25 displays a menu of options to the customer for disposition of the incoming call];

prompting a subscriber to select a call handling option for the held call signal from the menu displayed on the entertainment system (column 11, lines 5-32) [The DET 25 sends instructions to the customer to select an option to handle the incoming call]; and

executing a selected call handling option (column 11, lines 33-44) [The DET 25 sends a message regarding the user selection to the ISCP 15 so the call can be completed accordingly].

### ***Response to Arguments***

4. Applicant's arguments with respect to **claim 19-20 and 22** have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

5. **Claims 2-4, 6, 8-18 and 21** are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter: Regarding **claims 4, 9 and 21**, the prior art of records fails to disclose at this time the handling option is chosen from a group comprising take the call, send the call to voice mail, forward the call to another number, play a message, ignore the call and reject the call.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (703) 305-0981. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**GERALD GAUTHIER**  
**PATENT EXAMINER**

g.g.

December 15, 2004



**FAN TSANG**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**